THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.26323 OF 1995

DATED: 21-3-2007

Between :

1. Samavesam of Telugu Baptist Church Education Institutions, C.A.M. compound, Nellore, rep.by Educational Secretary Sri Y.T. Mitra.
2. T. Paul .. Petitioners

And

Regional Joint Director of School Education, Guntur and others. .. Respondents

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ORDER :

The Samavesam of Telugu Baptist Churches Educational Institution (for short, 'STBC') is a registered Association which has established educational institutions at various places in the State of Andhra Pradesh. One of the institutions established by the STBC is ABM High School, Markapur.

I have heard the learned Counsel for both the parties.

As could be seen from the material on record, there are various disputes with regard to the management of the STBC between two groups.

On account of the said disputes, the 3rd respondent along with his father C.D. Prakasa Rao had earlier filed O.S.No.87 of 1991 on the file of the Court of the Subordinate Judge, Markapur, whereas the 1st petitioner herein filed O.S.No118 of 1991 on the file of the Court of Subordinate Judge, Nellore. It appears that in spite of certain interlocutory orders passed pending the said suits, the 3rd respondent herein filed W.P.No.1993 of 1993 in this Court seeking a direction to the Government of A.P. to approve the correspondents appointed by them for the various educational institutions run by the Association.

The said writ petition was disposed of by this Court by order dated 17-4-1993 and aggrieved by the same the 1st petitioner herein filed W.A.No.61 of 1994. The Division Bench of this Court after hearing both the parties by order dated 24-1-1994 disposed of W.A.No.61 of 1994 with the following directions:

"1. O.S.No.87 of 1991 on the file of Subordinate Judge, Markapur, Prakasam District, shall stand transferred to the Court of Subordinate Judge at Nellore, and be tried along with O.S.No.118 of 1991 on the file of the Subordinate Judge at Nellore.

2. The order of the learned single Judge assailed in this writ appeal by issuing a direction to the respondent to consider the representation dated 15-6-1992, is passed pursuant there to shall stand quashed; and

3. The parties shall abide by the result of the suits which are directed to be tried together as indicated in Clause 2 of our order.""

Pursuant thereto, the District Educational Officer, Ongole passed an order dated 23-3-1994 approving the appointment of the 2nd petitioner herein as the Correspondent of ABM High School, Markapur for the period from 1-6-1993 to 31-5-1994 pending final disposal of O.S.No.118 of 1991 and O.S.No.87 of 1991. Challenging the same, the 3rd respondent filed W.P.No.5877 of 1994 pending which an interim order was passed suspending the order dated 23-3-1994. However, on a vacate application filed by the 1st petitioner herein the said interim suspension was vacated which was subsequently confirmed in W.A.No.954 of 1994. While so, at the General Council of STBC the 1st petitioner association vide resolution dated 28-7-1995 recommended the correspondent-ship of the 2nd petitioner for the period from 1-6-1995 to 31-5-1996. The said resolution was intimated to the District Educational Officer, Ongole for approval. However, the Regional Joint Director, Guntur passed the impugned order dated 26-10-1995 appointing the 3rd respondent herein as Correspondent of the ABM High School, Markapur as a special case in pursuance of the orders of this Court in W.P.No.14670 of 1995 with immediate effect. In the said order it was stated that the appointment of the 3rd respondent as recommended by the governing body of Markapur Baptists Field Association has been approved as a special

case. The said order is under challenge in this writ petition on various grounds.

At the outset, it is to be noted that W.P.No.14670 of 1995 was filed by the 3rd respondent without making the 1st petitioner Association as a party alleging that the Regional Joint Director of School Education had failed to adhere the order passed by this Court in W.P.No.18657 of 1994. The said writ petition was allowed by order dated 19-7-1995 with a direction to the Regional Joint Director of Education to consider the representation made by the petitioner therein for recommending him as Correspondent of ABM High School, Markapur and pass appropriate orders within 3 weeks.

In the present writ petition, it is contended by the petitioners that Markapur Baptists Field Association has nothing to do with the ABM High School, Markapur and the said school is under the management of the 1st petitioner Association. At any rate, having regard to the directions of the Division Bench in W.A.No.61 of 1994 that the parties shall abide by the result of the suits i.e., O.S.No.118 of 1991 and O.S.No.87 of 1991 on the file of the Subordinate Judge, Nellore, the Regional Joint Director of School Education is bound to follow the same and ought not to have acted contrary to the said directions.

It is relevant to note that during the pendency of this writ petition O.S.No.118 of 1991 was decreed and O.S.No.40 of 1994 filed by the 3rd respondent was dismissed by the trial Court vide common judgment dated 16-7-1997. Aggrieved by the same, the 3rd respondent herein filed A.S.No.5 of 1997 and A.S.No.87 of 1999 in the Court of the III- Addl. District Judge (FTC), Nellore and after hearing both the parties both the said appeals were dismissed by common judgment dated 28-4-2006 thereby negativing the claims made by the 3rd respondent.

It is not in dispute that the judgment of the Division Bench in W.A.No.61 of 1994 has become final and consequently both the

parties are bound by the result of O.S.No.118 of 1991 and O.S.No.40 of 1994 which were decided in favour of the 1st petitioner Association. In the circumstances, the impugned order dated 26-10-1995 which is on the face of it is contrary to the directions of the Division bench in W.A.No.61 of 1994 cannot be sustained and the same is accordingly set aside.

As a matter of fact, by virtue of the interim order dated 22-11-1995 granted pending this writ petition, the impugned order remained suspended throughout.

Writ Petition is accordingly allowed. No costs.

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G. ROHINI, J.

Dt. 21-3-2007
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